

### **REMARKS**

Applicants confirm the election without traverse of claims 1-31 in the reply filed on 11/03/04. Applicants have inserted new claims 33 and 34 based on limitations in withdrawn claim 32. Claim 1 has been amended to provide that the compensator is biaxial rather than uniaxial, meaning that  $n_x \neq n_y \neq n_z$ . In contrast, the index of refraction along the direction of two of the three axes x, y, z is the same in the uniaxial film of Ezzell.

Claims 1-6, 11-13, 17-24, 28, 30-31 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 6, 8-12, 16, 19, 21-26, 29-30 of copending Application No. 10/431,742. An executed Terminal Disclaimer suitable for overcoming the rejection is enclosed.

Claims 1-19, and 22-26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ezzell et al. (US 5,750,641). According to the Examiner:

Regarding claims 1-2, Ezzell teaches a multilayer compensator (angularity enhancement construction) comprising layer A of Applicant, which is an optically transparent and optically isotropic<sup>1</sup>), which is within the claimed out-of-plane birefringence range of not more than negative than  $-0.01$ . The substrate of Ezzell, which meets the requirements of layer A of Applicant, has at least one contiguous second layer (on at least one surface hereof) (claims 2-3) of polyimide having an out-of-plane birefringence in the range of  $-0.001$  to  $-0.2$  (column 3, lines 30-40), which overlaps the claimed range of more negative than  $-0.01$ . Polyimide is inherently an amorphous polymeric material as defined by Applicant's specification (page 5, lines 20-30). Hence the contiguous second layer of amorphous polyimide meets the requirements of layer B of Applicant. Ezzell teaches that the multilayer compensator (angularity enhancement layers) has an off-normal retardation of at least about 50 nm (column 5, lines 50-60), provided by the second polyimide layer, the underlying first layer being optically isotropic (column 2, lines 35-40).

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<sup>1</sup> Merriam-Webster's Collegiate Dictionary, 10<sup>th</sup> edition, defines the term "isotropic" as exhibiting properties with the same values when measured along axes in all directions, and "birefringence" as the refraction of light in an anisotropic material, wherein the term "anisotropic" is defined as exhibiting properties with different values when measured in different directions.

Ezzell teaches that it is understood that retardation values are actually negative numbers although we refer to values for retardation in absolute numbers (column 5, lines 50-60). Therefore although Ezzell fails to specify the combination of an overall in-plane retardation ( $R_{in}$ ) of the multilayer compensator of greater than 20 nm and an overall out-of-plane retardation ( $R_{th}$ ) of the multilayer compensator of greater than -20 nm, because Ezzell teaches that the multilayer compensator (angularity enhancement layers) has an off-normal retardation of at least about 50 nm, and that it is understood that retardation values are actually negative numbers although we refer to values for retardation in absolute numbers, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have provided for a combination of an overall in-plane retardation ( $R_{in}$ ) of the multilayer compensator of greater than 20 nm and an overall out-of-plane retardation ( $R_{th}$ ) of the multilayer compensator of greater than -20 nm, in order to obtain the desired overall retardation of the multilayer compensator.

Applicants respectfully disagree that Ezzell suggests the film of their invention. The present claims provide that the compensator film is biaxial, meaning the  $n_x \neq n_y \neq n_z$ . Contrarily, Ezzell teaches that his polyimide film layer is uniaxial where  $n_x = n_y$ . See column 5/ line 47 and column 12/ lines 42-43. When one simply coats a layer onto a substrate, it is uniaxial with  $n_x = n_y$ , unless some further steps are taken to alter that effect, such as stretching. The films of the present invention are biaxial where  $n_x \neq n_y$ . There is no suggestion anywhere in Ezzell of using a biaxial film. Therefore, the present claims patentably distinguish over the teachings of Ezzell.

Claims 20-21 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner acknowledges that:

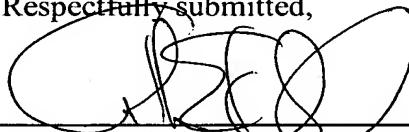
...the cited prior art of record fails to teach, even in combination, a multilayer compensator for an LC cell comprising one or more first layers having an out-of-plane birefringence not more negative than -0.005 and one or more second layers having an out-of-plane birefringence more negative than -0.005, wherein the layers are amorphous and comprise selected polymeric materials having sufficient thickness so that the overall in-plane retardation ( $R_e$ ) of

the compensator is from +20 to -20nm and the out-of-plane retardation (Rth) of at least one of the one or more second layers is more negative than -20nm, which polymeric materials of the one or more second layers is selected from the group consisting of poly(4,4'-hexafluoroisopropylidene-bisphenol) terephthalate-co-isophthalate, poly(4,4'-hexahydro-4,7-methanoindan-5-ylidene bisphenol) terephthalate, poly(4,4'-isopropylidene-2,2', 6,6'-tetrachlorobisphenol) terephthalate-co-isophthalate, poly(4,4'-hexafluoroisopropylidene)-bisphenol-co-(2-norbornylidene)-bisphenol terephthalate, poly(4,4'-hexahydro-4,7-methanoindan-5-ylidene)-bisphenol-co-(4,4'-isopropylidene-2,2',6,6'-tetrabromo)-bisphenol terephthalate, and poly(4,4'-isopropylidene-bisphenol-co-4,4'-(2-norbornylidene) bisphenol) terephthalate-co-isophthalate or copolymers of any of the foregoing.

The objected to claims 20 and 21 have been rewritten in independent form.

In view of the foregoing amendments and remarks, the Examiner is respectfully requested to withdraw the outstanding rejection and to pass the subject application to Allowance.

Respectfully submitted,



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Attorney for Applicants  
Registration No. 25,518

Arthur E. Kluegel/dlm  
Telephone: 585-477-2625  
Facsimile: 585-477-1148  
Enclosures

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

Encl: Terminal Disclaimer